

State of California
Department of Resources Recycling and Recovery
Compliance Order Public Hearing
To Consider the Completion of Compliance Order IWMA BR08-02
For the City of Compton, County of Los Angeles

August 16, 2011
10:00 A.M.
Byron Sher Auditorium

I. ISSUE

The City of Compton (City) has reported to the Department of Resources Recycling and Recovery (CalRecycle) its successful completion of all the requirements stipulated in Compliance Order IWMA BR08-02 (Compliance Order; Attachment 1). The City reported its progress through its 2009 annual report and its quarterly reports required by the Compliance Order. In addition, CalRecycle staff has conducted several site visits to the City to verify program implementation. Staff's most recent site visit was in May 2011 (Photo Log; Attachment 2).

Public Resources Code 41850 and the terms of the Compliance Order require CalRecycle to hold this public hearing, to determine if the City has complied with all of the conditions and requirements of the Compliance Order.

II. ITEM HISTORY

The City has been on two Compliance orders.

The first Compliance Order was issued on September 21, 1999 (IWMA BR99-43) by the California Integrated Waste Management Board (Board), predecessor of the Department of Resources Recycling and Recovery (CalRecycle). Subsequently, this Compliance Order received two time extension requests. On January 17, 2007, the Board considered the completion of Compliance Order IWMA BR99-43. The January 17, 2007 Agenda Item and Resolution for Compliance Order IWMA BR99-43, specifically noted the potential issues due to short-term nature of the City's hauler service agreement and the need for the City to continue services at those levels without interruption if the interim service arrangement were to end or change. The Agenda Item also recognized the need for Board staff to monitor: 1) the continuation of diversion services and 2) the continuation of programs implemented at the time the Compliance Order was completed. With those caveats, the Board determined that the City had completed the conditions of Compliance Order No. IWMA BR99-43 and was no longer subject to potential administrative penalties associated with the Compliance Order.

The second (current) Compliance Order IWMA BR08-02 was issued on December 16, 2008, to the City of Compton for the failure to adequately implement its Source Reduction and Recycling Element (SRRE) programs. For the current Compliance Order, the City was given three (3) months to fully comply. The short time period to comply was a strong message to the City that the Board expected a prompt return to diversion program implementation or the City would face potential penalties.

III. OPTIONS FOR CONSIDERATION

1. Find that the City of Compton has fully implemented the requirements of Compliance Order IWMA BR08-02.
2. Direct staff to modify Compliance Order IWMA BR08-02 to reflect additional programs that the City of Compton would need to implement. With this option, CalRecycle would also need to extend the overall timeframe of the Compliance Order.
3. Find that the City of Compton is non-compliant for failing to meet the requirements of the Compliance Order. With this option, staff would need to be directed to schedule a public hearing to consider fining the City for failing to comply with the Compliance Order.

IV. STAFF RECOMMENDATION

Staff recommends Option 1: Find that the City of Compton has fully implemented the requirements of Compliance Order IWMA BR08-02.

Approving the completion of the City's Compliance Order will commence the transfer of the City from the Jurisdiction and Product Compliance Unit back to the Local Assistance and Market Development Branch. The Local Assistance and Market Development Branch will review the City in the next two-year cycle, which commences with the submission of the 2013 annual report, and will continue to monitor the City's program implementation. This will provide the Department with the ability to monitor the City's overall efforts of continued program implementation. This does not impact the Department's ability to exercise its option to review the City's efforts at any time, should an independent compliance review by the Jurisdiction and Product Compliance Unit be warranted (PRC Section 41825(b)).

V. ANALYSIS

On December 16, 2008, the City of Compton was issued Compliance Order IWMA BR08-02 due to the City's failure to adequately implement its diversion programs.

The Compliance Order [Section 3.1] required the City to submit a Local Implementation Plan (LIP) by January 31, 2009, and fully implement the LIP by March 31, 2009. The Compliance Order also stipulated that the City of Compton would be monitored to ensure continued LIP implementation from March 31, 2009, through March 31, 2010.

The City adopted and implemented its LIP (Attachment 3), and CalRecycle staff monitored the City's progress to ensure full LIP implementation by March 31, 2009. As required, CalRecycle staff continued monitoring to evaluate program effectiveness. This monitoring continued through May 2011, when CalRecycle staff was able to make a final compliance verification site visit.

Existing Jurisdiction Conditions:

The City of Compton was incorporated in 1888. The City is a Southern California community in Los Angeles County encompassing 10.2 square miles. The 2009 Annual Report is based on a population of 99,431.

Key Jurisdiction Conditions				
Calculated Disposal Rate (Lbs/person/day)		Waste Stream Data		
<i>50% per Capita Disposal Target (2006)</i>	<i>2009</i>	<i>Population (2009)</i>	<i>Non-Residential Waste Stream Percentage</i>	<i>Residential Waste Stream Percentage</i>
5.8	4.9	99,431	70	30

Staff's Assessment

After analyzing the City's reports and monitoring the City's program development, CalRecycle staff believes that the City has implemented all programs incorporated in the LIP for Compliance Order IWMA BR08-02. As program improvements continue, further diversion increases can be expected. The City says it intends to implement, monitor, and improve all its LIP and SRRE programs, as necessary.

The following table and the accompanying Photo Log (Attachment 2) summarize the City's progress to date for each program listed in its LIP:

Local Implementation Plan Program Requirements	Progress to Date
<i>Residential Curbside Diversion Program</i>	<p><i>Implemented</i></p> <p>Following the issuance of the Compliance Order, the City with the assistance of its franchise hauler, has successfully implemented this program. This is supported by the monthly diversion reports the City has submitted and by staff's site visits.</p> <p>The City processes its residential recyclables on a consistent basis. Staff observed several loads of residential recyclables delivered by the franchise hauler to the materials recovery facility. On average, the loads have less than 15 percent contamination.</p> <p>The City's residential set out rate for recycling carts is around 85 percent.</p>

	<p>There are four (4) residential buy-back centers within the City.</p>
<p><i>Commercial Diversion Program</i></p>	<p><i>Implemented</i></p> <p>Prior to the issuance of the Compliance Order, the City's efforts in capturing recyclables from the commercial sector had been minimal.</p> <p>Compliance Order was issued, the City's commercial sector diversion rates have consistently increased. This is supported by diversion reports as well as staff observations during site visits.</p> <p>Implementation summary:</p> <ul style="list-style-type: none">• The City identified the top 50 large volume generators as specified in the LIP and conducted a waste stream audit. Following the audit, the franchise hauler placed 51 recycling bins at commercial businesses that would benefit most from having a recycling container.• Commercial commingled recycling service is free to all businesses.• Staff observed several loads of commercial recyclables delivered by the franchise hauler to the materials recovery facility: On average, the loads have less than 10 percent contamination.• The City reports that the franchise hauler identifies businesses with excess contamination and that the recycling coordinator makes personal visits to assist businesses to reduce contamination. This activity has been effective in reducing waste and has increased the number of commercial recycling accounts.
<p><i>Industrial Diversion</i></p>	<p><i>Implemented</i></p> <p>Most of the industrial locations are fenced in, and it is not feasible to enter the properties to visually inspect recycling and trash containers.</p> <p>The program's effectiveness was evaluated by reviewing third-party hauler diversion reports and observation of loads at the MRF and transfer station.</p> <p>The franchise hauler has committed to increased outreach to the industrial sector to capture additional recyclables to increase diversion.</p>

<p><i>Contract with Franchise Hauler</i></p>	<p><i>Implemented</i></p> <p>Prior to the issuance of the Compliance Order, the City had contracted with a new hauler in on a temporary basis. By the end of December 2007, the City's diversion rate had plummeted to below five (5) percent. Following the issuance of the Compliance Order, the hauler embarked on implementing the tasks in the LIP which resulted in increased diversion of around 44 percent.</p> <p>Due to the success in increasing diversion for the City, the hauler was able to secure a franchise agreement.</p>
<p><i>Construction and Demolition (C&D) Diversion Program</i></p>	<p><i>Implemented</i></p> <p>Just before the issuance of the Compliance Order, the City adopted a C&D ordinance on December 2, 2008. Following adoption of the C&D ordinance, the City and the franchise hauler developed a C&D recycling guide to enhance C&D recycling.</p> <p>The City has developed internal processes to ensure that the C&D recycling guide is a part of the building permit process. The City also passed an ordinance on December 9, 2008, requiring all non-franchised haulers to report tonnages to the City. This has allowed the City to account for previously un-captured diversion.</p>
<p><i>City Government</i></p>	<p><i>Implemented</i></p> <p>The City has implemented a desk side commingled recycling program throughout City Hall and other City facilities. Additionally, the City implemented a street sweeping and greenwaste diversion program.</p> <p>As part of its efforts to further implement this program, the City's franchise hauler conducted a City employee recycling workshop during 2009.</p>
<p><i>Schools Diversion Program</i></p>	<p><i>Implemented</i></p> <p>The Compliance Order required that the City, through its franchise hauler, make every reasonable effort to establish cooperative efforts with the school district and Compton Community College to implement waste diversion programs.</p> <p>Even though the franchise hauler does not service either the school district or Compton College, the franchise hauler has</p>

	<p>attempted on several occasions to institute a recycling program at the school district and to improve on the diversion programs at Compton Community College.</p> <p>The franchise hauler reports that the school district will be implementing a pilot program at three elementary schools during the summer of 2011 in order to evaluate potential roll out to the rest of the schools within the district.</p> <p>To date, these efforts have not been successful at Compton Community College.</p>
<i>Multifamily Diversion Program</i>	<p><i>Implemented</i></p> <p>The multifamily diversion efforts being implemented at this time are similar to those found within the surrounding Los Angeles County region. Due to the transient nature of the multifamily sector, it is generally difficult to manage and maintain multifamily programs.</p> <p>In order to be more effective and increase diversion, The franchise hauler has reported the hiring of a bilingual Recycling Coordinator who will be providing targeted outreach and education to the multifamily sector.</p>
<i>Community Public Outreach and Education Program</i>	<p><i>Implemented</i></p> <p>The City has developed and continues to implement an outreach and education program. Outreach is being conducted through printed materials, water bill inserts and Recycling Coordinator presentations at community events.</p> <p>Also, the City has developed a bilingual plan which is being implemented by the City's franchise hauler and monitored by the City.</p> <p>The franchise hauler's website (comptonrecycles.com) has:</p> <ul style="list-style-type: none">• A Residential Waste and Recycling Program page with links to what can be recycled using the recycling container and what can go in the greenwaste container.• A link providing information on Household Hazardous Waste and e-waste diversion.• "Just for Kids" link with videos using Keep America Beautiful theme.• An FAQ page.

	A bilingual (Spanish) translation of most of the items on the franchise hauler's website is reported to be up by the end of July 2011.
<i>Disposal Reporting Accuracy</i>	<i>Implemented</i> The City did not find any disposal tonnage misallocations. In an ongoing effort to ensure that there are no misallocations, the franchise hauler checks addresses associated with larger tonnages to verify that they are originating from the City.
<i>Quarterly and Annual Reporting</i>	<i>Implemented</i> The City has maintained its Compliance Documentation Binder and has submitted all necessary quarterly reports and annual reports.

Overview of the Options CalRecycle has Regarding Compliance Orders

Determination of Completion

Once a jurisdiction has reported full implementation of all of the conditions and terms of a Compliance Order, CalRecycle has the following general responsibilities regarding the consideration of the completion of the Compliance Order:

- CalRecycle shall hold a public hearing to determine whether or not the jurisdiction has fully implemented the Compliance Order. (PRC Section 41850(a)). This includes, but is not limited to, determining that the jurisdiction has made a good faith effort to fully implement all Local Assistance Plan and Source Reduction and Recycling Element selected programs (PRC Section 41850(b)); and
- Determine if the jurisdiction has met the diversion requirements of PRC Section 41780 (PRC Section 41850(b)).

Penalty Structure

CalRecycle may impose fines only after a jurisdiction fails to adhere to the Compliance Order and/or the schedule of requirements. Fines may be levied according to the cause of failure to adequately implement a Source Reduction and Recycling Element and/or Household Hazardous Waste Element; staff would recommend to CalRecycle an appropriate level of penalty based on the criteria listed below.

1. "Serious" failure includes a jurisdiction that fails to implement their Source Reduction and Recycling Element or Household Hazardous Waste Element without reason or justification. The fine recommended for this type of violation would be no less than \$5,000 and up to the maximum \$10,000 per day.

2. "Moderate" failure includes a jurisdiction that fails to implement their Source Reduction and Recycling Element or Household Hazardous Waste Element due to mitigating circumstances that have no bearing on natural disasters, budgetary constraints and work stoppages. Mitigating circumstances would be determined on a case-by-case basis by CalRecycle. The fine recommended for this type of violation would be \$1,000 to \$5,000 per day.
3. "Minor" failure includes a jurisdiction that has implemented some or all programs, but has failed to meet the diversion requirements to some extent. Fines will be based on information provided by the jurisdiction and on statutory relief considerations.
4. Fines, if determined to be appropriate, will be decided by CalRecycle on a case-by-case basis, and would range from \$1 per day up to \$1,000 per day.

A jurisdiction may only be fined after failing to adhere to the Compliance Order and schedule. Fines will continue until a jurisdiction has implemented the programs as outlined in the Compliance Order.

Notwithstanding the above penalty structure, if CalRecycle determines, on a case-by-case basis, that a jurisdiction demonstrates that it has made a good faith effort to implement its Source Reduction and Recycling Element and/or Household Hazardous Waste Element, including achieving the diversion requirements, CalRecycle shall not impose penalties.

VII. ATTACHMENTS

1. Compliance Order IWMA BR08-02
2. Site Visit Photo Report
3. Local Implementation Plan
4. City of Compton Waste Diversion Program and Diversion Rate Summary
5. Request for Action for the Removal of Compliance Order IWMA BR08-02

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

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